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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/733,414

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Caitlyn Curtin

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30593

7590

03/07/2011

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3743

MAIL DATE

DELIVERY MODE

03/07/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/733,414             | CURTIN, CAITLYN     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Stephen M. Gravini     | 3743                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-10,12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-10,12 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In view of the Board of Appeals decision rendered on November 23, 2010, PROSECUTION IS HEREBY REOPENED. The action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Technical Director has approved of reopening prosecution by signing below:

//.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

Claims 1-3, 7-10, 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

In this application, the first and second movement means are described in the specification to comprise a pivoting mechanism further described by functional language. The pivoting mechanism itself is also construed to be function language because it is not linked to any structure, other than a means for pivoting. The claimed "movement means" does not satisfy a written description requirement because the specification does not describe the claimed invention in sufficient detail that one of ordinary skill in the art can reasonably conclude that the inventor had possession of the claimed invention.

Claims 1-3, 7-10, 12 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which appellant regard as the invention. Evidence that claims 1-14 fail to correspond in scope with that which appellant regard as the invention can be found in the reply filed February 29, 2008. In that paper, appellant has stated "movement means" should be construed more narrowly than the *Hyatt* decision. Appellant argues that the figures "clearly shows the means as part of the hair and body dryer," but that figure does not show hair and body, such that the claims can be reasonably and broadly construed to be interpreted in light of the prior art as rejected below.

### ***Claim Rejections - 35 USC § 102***

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shelton (US 1,639,753). The claimed invention is construed under the current practice for claim language falling within 35 USC 112, sixth paragraph, as discussed above in

the rejection. Also the claims are reasonably and broadly construed in light of the accompanying specification to be disclosed on the face of that reference.

Claims 15-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Giorgis (US 4,691,451). The claims are reasonably and broadly construed in light of the accompanying specification to be disclosed on the face of that reference.

***Claim Rejections - 35 USC § 103***

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Shulman (US 5,054,211). Shelton discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed wide range of angles groupings. Shulman, another dryer, discloses that feature at column 2 lines 25-38. It would have been obvious to one skilled in the art to combine the teachings of Shelton with the wide range of angles, disclosed by Shulman for the purposed of controlling user drying operations by automating the activation of a drying means by proximity or motion sensing through a variety of operating positions including angles.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Avery (US 4,976,276). Shelton discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed lightweight material. Avery, another dryer, discloses that feature at column 2 lines 23-46. It would have been obvious to one skilled in the art to provide the claimed invention with that lightweight feature since, as expressly disclosed in Avery, such that it would allow for the weight of the device process to be lighter.

Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Potter (US 2,496,232). Shelton discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed muffler means. Potter, another dryer, discloses that feature at column 4 lines 14-42. It would have been obvious to one skilled in the art to provide the claimed invention with muffler means, as expressly disclosed in Potter, such that it would allow for quieter operation.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Avery in view of Andis (US 5,275,339). Shelton in view of Avery discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed heat sensitive material, heat resistant or heat tolerant material. Andis, another dryer, disclose those features at column 2 lines 43-55. It would have been obvious to one skilled in the art to combine the teachings of Shelton with the disclosed heat sensitive material, heat resistant or heat tolerant material by Bahman for the purpose of maximizing operation through heat intensive environments.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton in view of Anzuoni, Jr. et al. (US Des 360,282). Shelton discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed retractable power cord. Anzuoni, another dryer, discloses the claimed retractable power cord on the face of that reference. It would have been obvious to one skilled in the art to combine the teachings of Shelton with the disclosed retractable power cord, disclosed by Anzuoni for the purpose of changing the length of the power supply for the drying and allowing dryer use at different locations.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giorgis in view of Shulman (US 5,054,211). Giorgis discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed wide range of angles groupings. Shulman, another dryer, discloses that feature at column 2 lines 25-38. It would have been obvious to one skilled in the art to combine the teachings of Giorgis with the wide range of angles, disclosed by Shulman for the purposed of controlling user drying operations by automating the activation of a drying means by proximity or motion sensing through a variety of operating positions including angles.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giorgis in view of Aisenberg et al. (US 6,038,786). Giorgis discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed detecting the presence or absence of a user, which is interpreted to be a motion or proximity sensor. Aisenberg, another dryer, discloses that feature t column 7 lines 23-39. It would have been obvious to one skilled in the art to combine the teachings of Giorgis with the disclosed detecting step, disclosed by Aisenberg for the purposed of controlling user drying operations by automating the activation of a drying means by proximity or motion sensing.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giorgis in view of Avery (US 4,976,276). Giorgis discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed lightweight material. Avery, another dryer, discloses that feature at column 2 lines 23-46. It would have been obvious to one skilled in the art to provide the claimed invention with that lightweight

feature since, as expressly disclosed in Avery, such that it would allow for the weight of the device process to be lighter.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giorgis in view of Potter (US 2,496,232). Giorgis discloses the claimed invention, as rejected above under the anticipatory rejection, except for the claimed noise reduction step. Potter, another dryer, discloses that feature at column 4 lines 14-42. It would have been obvious to one skilled in the art to provide the claimed invention with noise reduction step, as expressly disclosed in Potter, such that it would allow for quieter operation.

### ***Conclusion***

Other prior art references disclose one or more features of the claimed invention, but are not relied upon in rejecting the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth B. Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Gravini/  
Primary Examiner, Art Unit 3743